

REMARKS

By this Amendment, claims 6, 7, 10, 12, 15-18, 20-21, 30-33, 38-40, 42-45, 47-49, 51 and 52 are amended, and claims 1-5, 37 and 41 are canceled. Accordingly, claims 6-36, 38-40 and 42-58 are pending in this application. No new matter is added.

Applicants gratefully acknowledge that claims 6, 11, 30, 32, 38, 41, 42, 44, 47, 48, 51, 52 and 55-58 are indicated to contain allowable subject matter. Claims 6, 30, 32, 38, 42, 44, 47, 48, 51 and 52 are rewritten into independent form, and the dependency of claims 7, 33, 39, 40, 43 and 49 are amended, to place claims 6-9, 30, 32-36, 38-40, 42-44 and 47-52 in condition for allowance. Claim 11 is are not rewritten in independent form at this time since claim 10 is believed to be patentable for the reasons set forth below.

Claims 1-4, 10-20, 31-48, 57 and 58 stand rejected under 35 U.S.C. §112, second paragraph, as indefinite. This rejection is moot with respect to canceled claims 1-4, 37 and 41. Rewritten independent claims 10, 32, 38, 42, 44 and 48 are amended to correct the antecedent basis issue noted by the Office Action. The claims are not narrowed by such amendments. It is respectfully submitted that claims 10-20, 31-36, 38-40, 42-48, 57 and 58 fully comply with 35 U.S.C. §112. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 1-4 and 18-19 stand rejected under 35 U.S.C. §102(e) over U.S. Patent No. 6,412,639 to Hickey. This rejection is moot with respect to canceled claims 1-4 and is respectfully traversed with respect to claims 18-19.

Claim 18 is amended to depend from rewritten independent claim 10. Claim 19 depends from claim 18. Independent claim 10 recites *inter alia* "at least the portion of the applicator that is disposed in the compartment is formed from a material that stabilizes the polymerizable monomeric adhesive material." It is respectfully submitted that Hickey fails to disclose, teach or suggest this claimed feature.

As the Office Action does not reject claim 10 under 35 U.S.C. §102(e) over Hickey, the Office Action implicitly admits that Hickey does not disclose this feature. Further, there is simply no disclosure in Hickey that the material of the tip of the applicator 146 stabilizes the polymerizable monomeric adhesive material.

Accordingly, it is respectfully submitted that claim 10 is patentable over Hickey. Claims 18 and 19 are patentable over Hickey at least in view of the patentability of claim 10, as well as for the additional features they recite. Therefore, withdrawal of the rejection of claims 1-4 and 18-19 under 35 U.S.C. §102(e) over Hickey is respectfully requested.

Claims 1-5, 7-10, 12-29, 31, 33-37, 39, 40, 43, 45, 46, 49, 50, 53 and 54 stand rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,660,273 to Disco, Jr. in view of U.S. Patent No. 5,928,611 to Leung and Hickey. This rejection is moot with respect to canceled claims 1-5 and 37 and is respectfully traversed with respect to the remaining claims.

First, it is respectfully submitted that Hickey cannot be used to preclude patentability under 35 U.S.C. §103 because Hickey qualifies as prior art only under subsection (e) of section 102 and Hickey and this application were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See 35 U.S.C. §103(c). This was clearly pointed out by the Applicants in the October 24, 2003 response, but has been ignored by the current Office Action. As discussed at the personal interview, the rejection under 35 U.S.C. §103(a) over Disco, Jr., Leung and Hickey is therefore improper and should be withdrawn.

Furthermore, even if only Disco, Jr. and Leung are considered in combination, the features recited in independent claims 10 and 21 are not disclosed, taught or suggested by such a combination.

In particular, claim 10 recites *inter alia* that " at least the portion of the applicator that is disposed in the compartment is formed from a material that stabilizes the polymerizable

monomeric adhesive material." Neither Discko, Jr. nor Leung, either alone or in combination, disclose, teach or suggest this claimed feature.

Although the Office Action rejects claim 10 over Discko, Jr., Leung and Hickey, the Office Action fails to indicate where this feature is allegedly disclosed. Discko, Jr. is completely unrelated to and includes no disclosure regarding polymerizable monomeric adhesive materials. It follows that there is no disclosure in Discko, Jr. regarding a material of the applicators 20, 120, 220, 320, 420, 520, 617 and 820 stabilizing a polymerizable monomeric adhesive material, as recited in claim 10. Although Leung relates to polymerizable monomeric adhesive materials, there is no disclosure in Leung that a portion of the applicator tip is formed from a material that stabilizes the polymerizable monomeric adhesive material. See column 9, lines 1-12, of Leung.

Claim 21 recites *inter alia* that "the at least one sealed compartment comprises a first sealed compartment and a second sealed compartment, the first and second compartments being separated, the polymerizable monomeric adhesive material being contained in the first sealed compartment and the applicator being contained in the second sealed compartment" and that "removal of the applicator requires the at least one sealed compartment containing the polymerizable monomeric adhesive material to be destructively unsealed." Neither Discko, Jr. nor Leung, either alone or in combination, discloses, teaches or suggests this claimed combination of features.

Leung does not disclose, teach or suggest destructively unsealing an applicator assembly in any manner, nor does the Office Action assert otherwise. The Office Action asserts that Discko, Jr. "discloses the applicator assembly is destructively unsealed by removal of the applicator," referring to the abstract and Fig. 15 of Discko, Jr. As discussed at the personal interview, as clearly shown in Fig. 15 of Discko, Jr., only the portion of the applicator assembly that contains the applicator is destructively unsealed by removal of the

applicator. The sealed compartment (medicament well 312) is not unsealed by removal of the applicator.

As discussed at the personal interview, Figs. 11 and 12 are considered by the Examiner to disclose that the sealed compartment containing the material 224 is unsealed by removal of the applicator. However, the embodiment shown in Figs. 11 and 12 of Discko, Jr. does not have a first sealed compartment and a second sealed compartment that are separated, as recited in claim 21. As shown in Figs. 11 and 12, and described, for example, in column 5, line 56 - column 6, line 3, an adhesive free section 229 extends between the wells 212 and 214 and allows the adhesive material contained in the well 212 to pass into the well 214. Thus, the wells 212, 214 are not separated and do not form a first sealed compartment and a second sealed compartment as recited in claim 21.

Therefore, it is respectfully submitted that claims 10 and 21 are patentable over any permissible combination of Discko, Jr. and Leung. Further, it is respectfully submitted that claims 12-20, 22-29, 31, 45, 46 and 53-54 are patentable over any permissible combination of Discko, Jr. and Leung at least in view of the patentability of claims 10 and 21 from which they respectively depend, as well as for the additional features they recite.

Claims 7-9, 49 and 50 are patentable in view of the patentability of claim 6 which was indicated as containing allowable subject matter and has been rewritten in independent form. Claims 33-36 are patentable in view of the patentability of claim 32 which was indicated as containing allowable subject matter and has been rewritten in independent form. Claims 39-40 and 43 are patentable in view of the patentability of claim 38 which was indicated as containing allowable subject matter and has been rewritten in independent form.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 6-36, 38-40 and 42-58 are respectfully requested.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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